



Entered on Docket
September 17, 2011

A handwritten signature in dark ink, appearing to read "Linda B. Riegle".

Hon. Linda B. Riegle
United States Bankruptcy Judge

LEWIS AND ROCA LLP

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Attorneys for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

**USA COMMERCIAL MORTGAGE
COMPANY,**

Debtor.

Case No. BK-S-06-10725-LBR
Chapter 11

**Order Scheduling Settlement Conference;
Status Conference and Vacating Status
Hearing and Trial re Arthur I. Kriss**

Settlement Conference Date: October 6, 2011
Settlement Conference Time: 1:30 p.m.

Status Conference: October 7, 2011
Time: 2:00 p.m.

A settlement conference is hereby ordered to commence on **October 6, 2011 at 1:30 p.m.** before Judge Ross at the Foley Federal Building, 300 Las Vegas Blvd. S., Judge's Conference Room, Las Vegas, Nevada re proofs of claim of Arthur I. Kriss, ("Mr. Kriss"), including but not limited to: Proof of Claim No. 10725-01874 in the amount of \$50,000 re HFAH Clear Lake; 10725-01875 filed in the amount of \$120,000 re Anchor B; 10725-01876 filed in the amount of \$50,000 re Tapia Ranch; and 10725-01877 filed in the

1 amount of \$24,483.61 re Brookmere Matteson; the objections filed on behalf of the
2 USACM Liquidating Trust [DE 8322, 8655, 8723, 8891], and responses or motions filed
3 by Mr. Kriss including, but not limited to, DE 8397, 8609 , 8610, 9011, and 9012.

4 Counsel of record that will participate in the trial of this case and all parties
5 appearing pro se and all individual parties must be present.

6 In case of non-individual parties, counsel shall arrange for a representative, with
7 binding authority to settle, to be present in court for the duration of the settlement
8 conference. Only upon obtaining an order from the settlement conference judge in
9 advance of the settlement conference may a client participate telephonically.

10 **Any requested exception to the attendance requirements must be submitted to**
11 **the settlement conference judge for approval in advance of the settlement conference.**

12 **PREPARATION FOR SETTLEMENT CONFERENCE**

13 *No later than seven business days before the settlement conference, the parties*
14 *shall exchange written settlement offers.* No later than four business days before the
15 settlement conference each party shall submit a confidential settlement conference
16 statement, *which will include a copy of the last settlement offer*, to the **chambers of**
17 Judge Ross for in camera review. If not timely submitted, sanctions may be imposed. The
18 settlement conference statement shall be no longer than 5 double-spaced pages. The
19 settlement conference statement shall contain the following:

- 20 1. A brief statement of the nature of the action.
- 21 2. A concise summary of the evidence that supports your theory of the case,
22 including information documenting your damages claims. You may attach
23 to your statement a limited number of documents or exhibits that are
24 especially relevant to key factual or legal issues.
- 25 3. A brief analysis of the key issues involved in the litigation.
- 26 4. A discussion of the strongest points in your case, both legal and factual, and
a frank discussion of the weakest points as well. The court expects you to
present a candid evaluation of the merits of your case.

- 1 5. A further discussion of the strongest and weakest points in your opponents'
- 2 case, but only if they are more than simply the converse of the weakest and
- 3 strongest points in your case.
- 4 6. A history of settlement discussions, if any, which details the demands and
- 5 offers which have been made, and the reasons they have been rejected.
- 6 7. The settlement proposal that you believe would be fair.
- 7 8. The settlement proposal that you would honestly be willing to make in order
- 8 to conclude this matter and stop the expense of litigation.

9 The settlement conference statement should be delivered to chambers in an
10 envelope clearly marked "Contains Confidential Settlement Brief" or faxed to the
11 settlement conference judge.

12 The purpose of the settlement conference statement is to assist the judge in
13 preparing for and conducting the settlement conference. In order to facilitate a meaningful
14 conference, your utmost candor in responding to all of the above listed questions is
15 required. The confidentiality of each statement will be strictly maintained and following
16 the conference, the statement will be destroyed.

17 DO NOT SERVE A COPY ON OPPOSING COUNSEL. DO NOT DELIVER OR
18 MAIL THE STATEMENT TO THE CLERK'S OFFICE.

19 **The settlement conference shall not be continued or vacated without prior**
20 **approval of the judge assigned to the case.**

21 FAILURE TO APPEAR WILL RESULT IN THE IMPOSITION OF
22 SANCTIONS. IF THE MATTER IS SETTLED BEFORE THE SETTLEMENT
23 CONFERENCE DATE, THE PARTIES MUST NOTIFY THE SETTLEMENT
24 CONFERENCE JUDGE'S CALENDAR CLERK SO THAT THE MATTER CAN BE
25 TAKEN OFF CALENDAR.

26 IT IS FURTHER ORDERED:

 The Scheduling Conference set for October 7, 2011 at 2:00 p.m. has been changed
to a Status Conference;

1 Lewis and Roca LLP is granted an extension to file a response to the Motion for
2 Summary Judgment on Proof of claim 10725-01876 Based Entirely Upon Investment in
3 the Tapia Ranch Loan, and Other Claims [DE 9012] until after the Settlement Conference
4 has been completed;

5 The Status hearing scheduled for September 30, 2011 at 9:30 a.m.[DE 9027] on the
6 Second Omnibus Objection of USACM Trust to Proofs of Claim Based Entirely Upon
7 Investment in the Brookmere Matteson Loan [DE 8655] is hereby vacated; and

8 The trial scheduled for October 21, 2011 at 9:30 a.m. is hereby vacated.

9
10 PREPARED AND RESPECTFULLY SUBMITTED BY:

11 **LEWIS AND ROCA LLP**
12

13 By /s/ John Hinderaker (AZ #018024)

14 Robert M. Charles, Jr.

15 John Hinderaker (*pro hac vice*)

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18 *Attorneys for USACM Liquidating Trust*
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Arthur Irvin Kriss

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LOCAL RULE 9021 CERTIFICATION

In accordance with LR 9021, counsel submitting this document certifies that the order accurately reflects the court's ruling and that (check one):

_____ This Court has waived the requirement set forth in LR 9021(b)(1).

_____ No party appeared at the hearing or filed an objection to the motion.

XXX I have delivered a copy of this proposed order to all counsel who appeared at the hearing, and any unrepresented parties who appeared at the hearing, and each has approved or disapproved the order, or failed to respond, as indicated below [list each party and whether the party has approved, disapproved, or failed to respond to the document]:

Counsel appearing: _____

_____ I certify that this is a case under Chapter 7 or 13, that I have served a copy of this order with the motion pursuant to LR 9014(g), and that no party has objected to the form or content of the order

Other Party: <u>Arthur I. Kriss</u>	
<input checked="" type="checkbox"/> approved the form of this order	<input type="checkbox"/> disapproved the form of this order
<input type="checkbox"/> waived the right to review the order and/or	<input type="checkbox"/> failed to respond to the document

s/ Arthur I. Kriss

Arthur I. Kriss

E-mail: akrissr@gmail.com

s/ Submitted by:

LEWIS AND ROCA LLP

By: /s/ John Hinderaker

Attorneys for USACM Liquidating Trust

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